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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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In the Matter of)
)
Implementation of Section 309(j))
of the Communications Act -)
Competitive Bidding)

PP Docket No. 93-253

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

REPLY COMMENTS OF TELEPHONE ELECTRONICS CORPORATION

Petitioner Telephone Electronics Corporation ("TEC"), through its counsel, hereby replies to the comments filed by interested parties on April 3, 1995, in connection with TEC's Petition for Waiver ("Petition"), filed March 28, 1995.

Press Broadcasting

Press does not object to TEC's Petition, as long as an "appropriate equivalent opportunity is provided to others". TEC has demonstrated unique circumstances, and has requested an extremely limited waiver that is in the best interest of the public. If any other party can make an equivalent showing, they already have the ability under the FCC's rules to seek a waiver. Absent such an extraordinary showing, however, the public interest would not be served by granting other waivers.

National Association of Black Owned Broadcasters

NABOB supports TEC's Petition, and therefore reply comments are for the most part unnecessary. TEC wishes to comment, however, on NABOB's assertion that TEC is attempting to hold the upcoming auctions "hostage" to its appeal. A few other parties have made similar comments, both here (see below) and in filings with the Court of Appeals.

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From day one, when the FCC first announced its proposed rules, TEC has availed itself of all of the procedural steps available to it (and to all other parties) for the purpose of protecting the rights of its rural telephone companies to participate in the upcoming auction. When TEC's rural telephone companies were excluded under the final rules, and TEC exhausted its administrative remedies, TEC appealed to the Court of Appeals. Now that the Court has issued an order granting TEC's motion to stay, based on a finding that TEC is likely to prevail on the merits, TEC is continuing to work within the FCC's rules in an effort to protect its rights, this time by filing a petition for waiver.

Throughout this process, TEC has been motivated by one, simple objective -- to provide PCS service to the customers of TEC's rural telephone companies. The owners of TEC have long been committed to serving the needs of the people who live in the poor, rural areas of the southeast. Long before there was such a thing as a "special preference" or a "designated entity", the family that owns TEC was stringing telephone lines and operating an antique switchboard out of its house because no one else was willing to provide telephone service to those rural areas. The people who live in those areas are TEC's constituency, and the owners of TEC are working to serve their best interests today just as their parents did. When the FCC adopted rules preventing TEC from providing the wireless telecommunications services that its rural customers want, TEC was forced to exercise its legal right to seek judicial review of those FCC regulations.

For this reason, TEC makes no apology for taking the steps that it has taken. TEC has the same right as does NABOB and all of the other designated entities to work within the legal system in an effort to serve their constituencies. TEC's rural telephone

companies were serving the needs of their rural customers long before 95% of the other potential bidders in the upcoming auction even existed. Now, when TEC is exercising its rights to seek access to the upcoming PCS auction after being "elbowed out" of eligibility to participate in the auctions by the newer designated entities and special interest groups rushing to ensure their own participation, it is offensive and hypocritical to accuse TEC of holding the auction "hostage", or of using its court appeal to leverage a "deal" with the FCC. If TEC's commitment to serving the needs of the rural areas of the southeast has ever been doubted, despite its track record of serving those needs for the past 72 years, those doubts should have been eliminated by the narrow scope of TEC's requested petition for a waiver. The nature and level of the commitment of the other designated entities remains to be seen. It will be interesting to look back 40 or 50 years from now to see which of the designated entities are still serving their constituencies, and which have "cashed out" their holdings in what is perceived by many as a telecommunications gold rush.

Allied Communications Group, Inc.

Allied supports TEC's Petition, except to the extent TEC seeks bidding credits. TEC has already addressed this issue in great detail in previous filings with the FCC and the Court of Appeals. It will not use this reply comment procedure as an opportunity to rehash those arguments. Suffice it to say that TEC's rural telephone companies will suffer an unfair disadvantage if they are not provided the same treatment as other small businesses. Given the limited scope of TEC's Petition, which limits TEC to only a few markets in the auction, the odds of TEC successfully bidding in the auction have already

been dramatically reduced. If TEC's small rural telephone companies are also saddled with the handicap of bidding against other bidders who will receive 10% and higher credits, they will have no realistic chance of succeeding in the auction. For these reasons, a waiver that does not include the bidding credit would be of little or no benefit to TEC.

Columbia Cellular, Inc.

With respect to Columbia's comment that TEC appears to be "coercing" the FCC to grant its waiver, TEC refers to its comments filed in reply to the comments of NABOB. With respect to Columbia's comments in opposition to the 10% bidding credit, TEC refers to its comments filed in reply to the comments of Allied.

Southeast Telephone Company

Southeast Telephone Company has advised TEC that it has withdrawn its comments, and based on that representation there is no need for TEC to reply to those comments.

Gateway PCS, Inc., New Wave PCS Communications, Inc. and Personal Technology Services, Inc. ("Joint Commenters")

The Joint Commenters argue that TEC's Petition is actually a time-barred request for reconsideration of previous rulings by the FCC. This is incorrect, primarily because TEC's Petition provides the FCC with a request for relief that is very different than anything previously considered by the FCC, as can be seen by comparing TEC's Petition to its previous filings.

With regard to the Joint Commenters' concern that a grant of TEC's Petition would open a "Pandora's box" of other waiver requests, the same argument could be made any

time a request for a waiver is filed with the FCC. The waiver process has been established for the specific purpose of providing the FCC with the flexibility that it needs when its general rules, as applied to individual circumstances, do not serve the public interest. TEC has presented the FCC with an explanation of how its situation is unique, and why it would be in the public interest to grant TEC's request for a waiver. The FCC will be free to evaluate any future requests for waiver on the merits of the specific facts presented, and its treatment of TEC's request will not have any impact on the process it must use to treat future requests for waivers.

Association of Independent Designated Entities ("AIDE")

With respect to AIDE's comment that TEC's Petition is a de facto petition for reconsideration, TEC references its comments filed in reply to the Joint Commenters' comments. TEC's Petition meets the requirements for granting a waiver and the Petition is not contrary to the requirements of the Administrative Procedure Act. With respect to AIDE's charge that TEC is improperly seeking a "reward" for its challenge in the court of appeals and that it is using the appeal for leverage purposes, TEC references its comments filed in reply to the comments of NABOB.

USIMTA and USIPCA

These commenters argue that TEC is too big to participate in the auction. Since TEC has already adequately addressed this issue in its previous filings with the FCC and with the Court of Appeals, there is no need to address this issue again.

BET Holdings, Inc.

BET asks the FCC to postpone a decision on TEC's waiver until after the Court of Appeals rules on a pending motion to lift the stay. TEC has addressed the merits of that motion in TEC's memorandum in opposition filed with the Court of Appeal, a copy of which was served on the FCC. TEC hereby incorporates by reference that opposition in reply to BET's comments in this regard.

With respect to BET's argument that a grant of TEC's waiver will encourage the filing of other waiver requests, TEC references its comments filed in reply to the comments of the Joint Commenters.

With respect to BET's allegations that TEC is using the legal process as a "threat" to the FCC and "administrative blackmail", TEC references its comments filed in response to NABOB.

With respect to BET's comments that TEC is "too big", TEC references its reply comments above, as well as its previous filings with the FCC and the Court of Appeals. In short, no purpose would be served by rehashing those arguments here.

TEC has no comments in reply to BET's suggestion that the FCC abandon the bidding credits for minority and women-owned entities.

Omnipoint Communications, Inc.

Omnipoint is primarily concerned with the uncertainty that it believes will exist regardless of how the FCC acts on TEC's Petition. Omnipoint does not comment on the merits of TEC's Petition. For this reason a reply by TEC is not necessary.

Consolidated Communication, Inc. ("CCI")

CCI supports TEC 's Petition, and as such, it is not necessary for TEC to reply in that respect. With respect to CCI's request to be considered for a similar waiver, CCI may not be similarly situated as TEC as the result of its attributable cellular interests. For this reason, CCI's cellular interests would need to be examined to determine whether it merits consideration under the same or a similar waiver as that requested by TEC.

As recognized by CCI, the principle difference between CCI and TEC is the nature of the affiliates. TEC does not have sufficient information or knowledge concerning the business of CCI's affiliates to comment on whether they are comparable to TEC's affiliate resellers in that respect.

Western New Mexico Telephone Company, Inc., Inter-Community Telephone Company, Cuba City Telephone Exchange Company, Belmont Telephone Company, Bretton Woods Telephone Company, Inc., J.B.N. Telephone Company, Inc. and Haviland Telephone Company, Inc. ("7 Rural Telcos")

Without knowing more about the nature of Lynch Corporation, the affiliate of the 7 Rural Telcos, TEC cannot comment on how closely situated these rural companies are to those owned by TEC.

Gulf Telephone Company, Hopper Telecommunications Company, Inc., Millry Telephone Company, Inc., Moundville Telephone Company, Inc., Pinebelt Telephone Company, Inc., and Ragland Telephone Company, Inc. ("Gulf, et al.")

Based on Gulf et al.'s comments, it appears that each of the commenters is a rural telco that qualifies for the C and F blocks auction without the need for a waiver such as that sought by TEC. The fact that few rural telephone companies appear to be similarly situated to TEC underscores the uniqueness of TEC's situation, and provides support for TEC's request.

TEC agrees with Gulf, et al.'s suggestion that the scope of the waiver granted TEC be clarified in the manner described by Gulf, et al.. Specifically, TEC agrees with Gulf, et al.'s suggestion that the revenues of non-LEC affiliates of a rural telephone company should be excluded in the computation of gross revenues. With respect to any concern regarding non-rural LEC affiliates, a rural telephone company affiliated with a LEC that has more than 100,000 access lines is not a rural telephone company. In addition, by its Petition, TEC does not seek the ability to make payments for any successful bids pursuant to the enhanced installment plan available to small businesses owned by minorities and women. It seeks access only to the small business installment payment plan available to small businesses that are not owned by minorities or women.

General Comments

TEC notes that the vast majority of the parties providing comments on TEC's Petition support TEC's Petition without qualification. There is no need for TEC to provide further reply comment with respect to those comments. TEC has also chosen not provide reply comments to a small number of comments that were for the most part identical to the comments addressed above.

Respectfully submitted,

TELEPHONE ELECTRONICS
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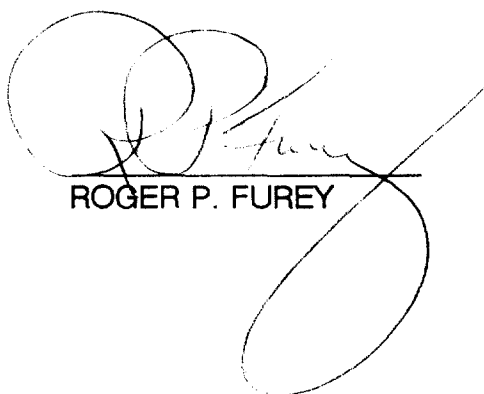
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April 14, 1995

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that service of the foregoing Reply Comments of Telephone Electronics Corporation and Partitioning Plan of Bay Springs Telephone Company, Inc., PCS PRIMECO, L.P. and Peterson County Communications, L.P. has been made by mailing a copy thereof, First-Class mail, postage pre-paid, this 14th day of April, 1995, to the persons listed on the attached service list.



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